

**REMARKS**

Applicant acknowledges the Examiner's indication of consideration given to the references cited on Applicant's IDS Form PTO/SB/08A dated April 30, 2004.

Applicant has proposed drawing changes to correct the relative location of a hole 134A in Figure 1F and the relative location of a bolt 128A in Figures 1G and 1H. Two sheets of replacement formal drawings accompany this response.

Regarding the claims:

- Claims 1-20 are pending ;
- Claims 17-20 have been allowed;
- Claims 1, 4, 7, and 14 have been rejected;
- Claim 21 has been added, claim 21 is a partial rewritten dependent claim 16;
- Claims 2, 3, 5, 6, 8-13, 15, and 16 are objected to as being dependent upon a rejected base claim, however the Examiner indicates the claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As such, **Applicant has canceled claims 2 and 3 rewriting and clarifying objected to claims 2 and 3 in combination as currently amended independent claim 1; and**
- Independent claim 1, and dependent claims 8, 11, 12, 14-18 and 20 have been amended to clarify Applicant's invention. Dependent claims 8, 11, 12, 14-18

and 20 have been amended to clarify Applicant's invention, and or correct informalities and or errors of a typographical nature only.

Though not conceding to the Examiner's position, Applicant has amended independent claim 1 and dependent claims 8, 11, 12, and 14 to better clarify Applicant's present invention. Reconsideration and further examination of all claims 1, and 4-21 is respectfully requested.

Support for Applicant's clarifications and amendments can be found throughout Applicant's specification with specific references noted in the remarks that follow.

#### OFFICE ACTION ITEM 1

#### EXAMINER'S REJECTIONS UNDER 35 USC § 112

The Examiner rejected dependant claim 14 under 35 U.S.C. § 112, second paragraph, *'as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention ... [as] it is not permissible to use trademarks in claims...(emphasis added)'* (Office Action page 2 paragraph 1). The Examiner also indicates that claim 14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 USC § 112, second paragraph, (Office Action page 3 paragraph 4).

The Examiner did not provided any specifics as to what the Examiner considered trademarks in claim 14. Notwithstanding Applicant has made a careful review of claim 14 and has amended claim 14 removing 'INTEL PRO/WIRELESS 5000 LAN'. Applicant considers each of the remaining uppercase terms as terms in the art, electrical standards, and or defined throughout Applicant's specification, with many of the terms being defined in Applicant's specification starting on page 24, line 26 through page 25, line 20.

Furthermore, Applicant considers the 'INTEL PRO/WIRELESS 5000 LAN' to be a local area network 'LAN', and as such still covered by dependent claim 14.

With respect to dependent claim 14, Applicant contends with amendments to amended independent claim 1 from which dependent claim 14 depends, and Applicant's clarification, dependent claim 14 includes patentable, novel, and non-obvious features in view of the art disclosed by the cited references, and is allowable as ultimately depending on an allowable claim. Applicant requests that the Examiner remove the rejection and allow dependent claim 14.

#### OFFICE ACTION ITEM 2

#### EXAMINER'S OBJECTION TO THE DRAWINGS UNDER 37 CFR § 1.83(a)

The Examiner objected to the drawings under 37 CFR § 1.83(a) with regards to:

- a) *'the drawings must show ... the positioning actuator which is a cam or solenoid (claim 4)'; and*
- b) *'the drawings must show... the control system which is able to position the pinch plate (claims 8, 11, and 12)' (Office Action page 2 paragraph 2).*

With regard to 'a)' above Applicant directs the Examiner to Applicant's Figures 1D, 1E, and corresponding disclosure in Applicant's specification. There, in Applicant's specification, Applicant's Figures 1D and 1E depict a positioning device 136 and Applicant teaches:

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In Applicant's specification page 16, lines 12-14:

**"Positioning device 136 can preferably be a cam, solenoid, or other similar or suitable mechanical positioning device. Positioning device 136 can be referred to as a positioning actuator.";** and

In Applicant's specification page 18, lines 2-3:

**"...a cam or solenoid or other similar or suitable positioning device 136 can be referred to as a positioning actuator."**

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As such, Applicant contends that the drawings show '*... the positioning actuator which is a cam or solenoid (claim 4)*'.

With regard to 'b)' above Applicant has amended claim 8 to clarify '*the drawings must show... the control system which is able to position the pinch plate (claims 8, 11, and 12)*' (Office Action page 2 paragraph 2). Support for Applicant's amendments can be found in Applicant's Figures and throughout Applicant's specification, and in particular in Applicant's Figures 1D and 1E, and Applicant's specification where Applicant teaches:

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In Applicant's specification page 16, lines 4-14:

"Referring to Figure 1D shows a pitching machine 100 having a pitch dynamics device attached incorporating an electronic control system 500 and positioning device 136 attached thereto. In an exemplary embodiment, manual positioning control of the pitch dynamics device can be supplemented or eliminated with the addition of an electronic control system 500. In this regard, the electronic **control system 500** having an optional keypad/touch pad 506, display 508, or other suitable, required or desired features to aid

**operation can be utilized to effectuate positioning of the pinch plate 106 and associated pitch dynamics device elements, by way of, a position control interface 512 and positioning device 136. Positioning device 136 can preferably be a cam, solenoid, or other similar or suitable mechanical positioning device. Positioning device 136 can be referred to as a positioning actuator."**

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With respect to dependent claims 11, and 12 Applicant has made certain amendments to clarify claims 11 and 12, removing the reference to '*... the control system which is able to position the pinch plate*' (Office Action page 2 paragraph 2).

With respect to dependent claims 4, 8, 11, and 12, Applicant contends with amendments to amended independent claim 1 from which dependent claims 4, 8, 11, and 12 depend, and Applicant's amendment and clarifications to dependent claims 4, 8, 11, and 12, that dependent claims 4, 8, 11, and 12 include patentable, novel, and non-obvious features in view of the art disclosed by the cited references, and are allowable as ultimately depending on an allowable claim. Applicant requests that the Examiner remove the objection to the drawing under 37 CFR § 1.83(a), and allow dependent claims 4, 8, 11, and 12.

### OFFICE ACTION ITEM 3

#### EXAMINER'S REJECTION OF CLAIMS 1, 4, AND 7 UNDER 35 USC § 102(b)

The Examiner rejected claims 1, 4, and 7 under 35 USC § 102(b) as being anticipated by Van Ross 5,826,568 ('568) (Office Action page 3 paragraph 1).

Though not conceding to the Examiner's position, Applicant has amended independent claim 1 as a rewritten and clarified objected to claim 2 and 3. As such, the

Examiner notes claim 2 and 3 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims (Office Action page 3 paragraph 3).

Applicant's amended independent claim 1 with now canceled objected to dependent claims 2 and 3 included (highlighted) is shown below. Support for Applicant's amendment and clarifications can be found through Applicant's specification.

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1. (Currently amended) : A pitch dynamics device comprising:

a pinch plate, said pinch plate is movably attached to a pitching machine; and

a positioning actuator operationally connected with said pinch plate, said positioning actuator positions said pinch plate effectuating control of the pitch dynamics of a pitched ball from said pitching machine, while maintaining said pitched ball accuracy, without changing said pitching machine pitching wheel speed, **said positioning actuator positions said pinch plate in at least one of the following positions:**

**in a mostly horizontal position, at a minimum distance from said pitching machine pitching wheel, effectuating the throwing of said pitched ball with fast-speed pitch dynamics; or**

**in an angled position, slowing pitch speed by decreasing the amount of pinch between said pinch plate and said pitching machine pitching wheel and moving the pitch release point to an elevated trajectory, effectuating the throwing of said pitched ball with off-speed pitch dynamics.**

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Applicant contends that in view of the aforementioned amendments and clarification, amended independent claim 1 is patentable, novel, and non-obvious in view of the art disclosed by the cited references and requests that the Examiner remove the rejection and allow amended independent claim 1.

With respect to dependent claims 4 and 7, Applicant contends with amendments to amended independent claim 1 from which dependent claims 4 and 7 depend, and Applicant's clarification, that dependent claims 4 and 7 include patentable, novel, and non-obvious features in view of the art disclosed by the cited references, and are allowable as ultimately depending on an allowable claim. Applicant requests that the Examiner remove the rejection(s) and allow dependent claims 4 and 7.

OFFICE ACTION ITEM 4

EXAMINER'S ALLOWANCE OF CLAIMS 17-20

Applicant acknowledges that the Examiner has allowed claims 17-20 (Office Action page 3 paragraph 2).

OFFICE ACTION ITEM 5

EXAMINER'S OBJECTION TO CLAIMS 2, 3, 5, 6, 8-13, 15, AND 16

The Examiner has objected to dependent claims 2, 3, 5, 6, 8-13, 15 and 16 as being dependant on a rejected base claim. The Examiner notes that the claims would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

Applicant has rewritten and clarified objected to claim 2 and 3 as currently amended independent claim 1, including all of the limitations of the base claim and any

intervening claims. As such Applicant contends that objected to claim 2 and 3 (rewritten and clarified as currently amended claim 1 is now allowable). Correspondingly, Applicant has canceled claims 2 and 3.

With respect to dependent claims 5, 6, 8-13, 15, and 16, Applicant contends with amendments to amended independent claim 1 from which dependent claims 5, 6, 8-13, 15, and 16 depend, and Applicant's clarification, that dependent claims 5, 6, 8-13, 15, and 16 include patentable, novel, and non-obvious features in view of the art disclosed by the cited references, and are allowable as ultimately depending on an allowable claim. Applicant requests that the Examiner remove the objection(s) and allow dependent claims 5, 6, 8-13, 15, and 16.

CONCLUSION

Applicant respectfully requests that Figures 1F, 1G, and 1H (2 sheets of drawings) be replaced with Figures 1F, 1G, and 1H formal sheets of drawing (2 sheets of drawings) that accompany this response.

Applicant respectfully requests reconsideration and further examination of all claims 1, and 4-21. Applicant submits that in view of the amendments and remarks set forth above, this application is in condition for allowance and requests early notification to this effect.

Respectfully Submitted,



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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: United States Patent and Trademark Office Mail Stop Amendments, Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on:

JUNE 1, 2004



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